

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Thomas Juliano	Team: Squad #11	CCRB Case #: 201807230	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 08/20/2018 12:20 PM	Location of Incident: [REDACTED]	Precinct: 101	18 Mo. SOL 2/20/2020	EO SOL 2/20/2020	
Date/Time CV Reported Wed, 08/22/2018 7:10 PM	CV Reported At: IAB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 08/31/2018 10:46 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Edmond Decio	31394	915565	101 PCT
2. POF Yvonne Barnes	21616	939900	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Tierney	24449	946326	101 PCT
2. POM Mohammad Rahman	23915	965438	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Edmond Decio	Force: Police Officer Edmond Decio pointed his gun at § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Edmond Decio	Abuse: Police Officer Edmond Decio entered § 87(2)(b) [REDACTED] in Queens.	[REDACTED]
C.POF Yvonne Barnes	Abuse: Police Officer Yvonne Barnes entered § 87(2)(b) [REDACTED] in Queens.	[REDACTED]
D.POM Edmond Decio	Force: Police Officer Edmond Decio used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Edmond Decio	Force: Police Officer Edmond Decio used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
F.POM Edmond Decio	Off. Language: Police Officer Edmond Decio made remarks to § 87(2)(b) [REDACTED] based upon race.	[REDACTED]
G.POM Edmond Decio	Abuse: PO Edmond Decio forcibly removed § 87(2)(b) [REDACTED] to the hospital.	[REDACTED]
H.POF Yvonne Barnes	Abuse: Police Officer Yvonne Barnes forcibly removed § 87(2)(b) [REDACTED] to the hospital.	[REDACTED]

## Case Summary

On August 22, 2018, Sgt. Michael Juliano of the 101<sup>st</sup> Precinct reported a level 2 use of force to IAB after § 87(2)(b) walked into the stationhouse and complained that she sustained bruising as a result of this incident. On August 31, 2018, the complaint was received at the CCRB.

On August 20, 2018, at 12:20 p.m., § 87(2)(b) and her son, § 87(2)(b) were in their home located at § 87(2)(b) in Queens. § 87(2)(b) got into a dispute with § 87(2)(b) and § 87(2)(b) called the police. § 87(2)(b) heard banging on the front door and upon opening the door § 87(2)(b) saw PO Edmond Decio and PO Yvonne Barnes of the 101<sup>st</sup> Precinct. PO Decio had his firearm pointed at § 87(2)(b) and told her to get on the ground (**Allegation A: Force**, § 87(2)(g) § 87(2)(b) got onto the ground and PO Decio and PO Barnes entered the house (**Allegations B and C: Abuse of Authority**, § 87(2)(g) PO Decio placed § 87(2)(b) into handcuffs and kicked § 87(2)(b) in the right thigh (**Allegation D: Force**, § 87(2)(g) § 87(2)(b) was then stood up, and PO Decio elbowed her once in the chest (**Allegation E: Force**, § 87(2)(g) PO Decio called § 87(2)(b) a “black bitch” (**Allegation F: Offensive language**: § 87(2)(g) PO Decio and PO Barnes then removed § 87(2)(b) to § 87(2)(b) Hospital (**Allegations G and H: Abuse of Authority**, § 87(2)(g)

There is no video evidence in this case.

On October 1, 2018, this case was reassigned from Inv. Raquel Velasquez to SI John Butler due to the promotion of Inv. Velasquez. On November 21, 2018, this case was reassigned from SI Butler to the undersigned investigator due to the departure of SI Butler from the agency.

## Findings and Recommendations

**Allegation (A) Force: Police Officer Edmond Decio pointed his gun at § 87(2)(b)**  
§ 87(2)(b) testified that she and § 87(2)(b) engaged in a dispute. § 87(2)(b) had consumed alcohol, but she did not know how much she consumed. She had been awake since 9:00 a.m. and believed that she had her first alcoholic beverage at 9:30 a.m. or 10:00 a.m. § 87(2)(b) was not drinking during the dispute with § 87(2)(b) denied being intoxicated during the incident. At approximately 12:20 p.m., § 87(2)(b) sat in the living room when she heard banging on the front door. § 87(2)(b) did not know where § 87(2)(b) was, but knew that he was in the house. § 87(2)(b) believed that § 87(2)(b) called the police on her, but she was not certain of this because she did not hear any phone conversations. § 87(2)(b) opened the door and saw PO Decio, who stood with his arm stretched out and pointed a black gun at § 87(2)(b)s face. The gun was less than a foot away from § 87(2)(b)s face. PO Decio yelled, “Get down. Get down. Turn around. Put your hands behind your back.” § 87(2)(b) was fearful, but she turned around, got on her knees, and placed her hands behind her back.

§ 87(2)(b) provided an unverified phone statement and stated that he had gotten into a verbal argument with § 87(2)(b) who had a knife, about § 87(2)(b)s alcohol consumption. § 87(2)(b) told § 87(2)(b) to get the knife away from him or else he was going to call the police. § 87(2)(b) ran to the back of the house and returned with the knife. § 87(2)(b) was not sure what § 87(2)(b) was doing in the back of the house. § 87(2)(b) then called the police. Approximately five minutes later

police officers arrived at the house. § 87(2)(b) was sitting in the living room on his laptop doing school work. § 87(2)(b) opened the front door and an officer grabbed § 87(2)(b) and pulled her outside. § 87(2)(b) could not see where § 87(2)(b) was grabbed or how she was pulled out. He explained that where he was seated was perpendicular to the front door, and that he was viewing the front door at a 45 degree angle and subsequently could not see the officers. § 87(2)(b) did not see any officers with their guns drawn. § 87(2)(b) was yelling and an officer yelled "Get down get down!" but § 87(2)(b) did not hear anything else that was said as he did not pay attention as he did not want to get upset.

PO Decio testified that he and PO Barnes received a radio run regarding a domestic dispute with a knife at § 87(2)(b). PO Decio did not recall if there were any additional details provided or if the radio run indicated what the knife was being used for. PO Decio and PO Barnes then responded to the location. PO Decio and PO Barnes were the first officers to respond. PO Decio stated that upon arriving to § 87(2)(b) PO Decio and PO Barnes approached the door front. PO Decio had his firearm drawn. PO Decio stated that his gun was pointed at the ground, but that it may have possibly been pointed at the door, which was open. Once he saw that § 87(2)(b) was unarmed he holstered his firearm. PO Decio did not point his gun at § 87(2)(b). PO Decio drew his gun because the call was transmitted over division radio as a dispute with a knife.

PO Barnes testified that upon arriving to the home that the gate to the front door of the house was open. PO Barnes and PO Decio walked to the front door. PO Decio had his firearm drawn and pointed at the front door. PO Barnes remained slightly behind PO Decio with her hand on her holster. When asked why she did not feel that she had to draw her firearm, she stated that it was a tactical understanding between her and PO Decio that if one of them had their gun drawn, that the other would remain behind them with their hand on their holster as to limit the potential for friendly fire or unnecessary shots being fired. PO Decio never pointed his firearm at § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

**Allegation (B) Abuse of Authority: Police Officer Edmond Decio entered**

§ 87(2)(b) **in Queens.**

**Allegation (C) Abuse of Authority: Police Officer Yvonne Barnes entered**

§ 87(2)(b) **in Queens.**

§ 87(2)(b) testified that after she got onto the floor, that PO Decio and PO Barnes entered her home and placed her in handcuffs.

§ 87(2)(b) provided a phone statement and stated that after he got into a verbal dispute with § 87(2)(b) who had a knife, that he called 911. Officers responded and knocked on the door. § 87(2)(b) opened the door and an officer grabbed § 87(2)(b) pulled her out of the home and handcuffed her outside of the home, and that afterward he let PO Decio and PO Barnes into the home to fill out the domestic incident report.

PO Barnes testified that upon arriving to the home that § 87(2)(b) had the front door open and said to the officers, “She’s right here. Please take her to the hospital.” PO Decio testified that he entered the doorway and saw § 87(2)(b) running at him.

ICAD information shows that § 87(2)(b) called 911, stated that his mother was intoxicated, pulled a knife on him, slapped him, and stated that if he called the police that he would be dead before they got there. It describes § 87(2)(b) as a heavy set woman wearing purple shirt and black pants. **(Board Review 01)**

According to the emergency doctrine established in *People v. Doll*, 21 N.Y.3d 665 (2013), the three criteria justifying a warrantless entry are 1) reasonable grounds to believe an emergency is at hand and an immediate need to protect life, 2) the search must not be primarily motivated by intent to arrest or to seize evidence, and 3) there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched. **(Board Review 02)**

§ 87(2)(b), § 87(2)(g)  
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**Allegation (D) Force: Police Officer Edmond Decio used physical force against § 87(2)(b)**  
**Allegation (E) Force: Police Officer Edmond Decio used physical force against § 87(2)(b)**  
**Allegation (F) Offensive language: Police Officer Edmond Decio made remarks to § 87(2)(b) based upon race.**

§ 87(2)(b) testified that after PO Decio pointed his gun at her and ordered her onto the ground, that she voluntarily turned around, got onto her knees, and placed her hands behind her back. PO Decio then entered the house and handcuffed her. After § 87(2)(b) was handcuffed PO Decio kicked her in the right thigh; she was not sure how many times. PO Decio then picked § 87(2)(b) up by the handcuffs and, in the process, elbowed her in the chest once. § 87(2)(b) was not sure which elbow PO Decio used. § 87(2)(b) did not know whether PO Decio said anything while using force, but at some point, she was not sure when, PO Decio said either “Get up black bitch” or “Turn around black bitch.” § 87(2)(b) provided photos of bruising to her arms, chest, and legs. **(Board Review 03)**

§ 87(2)(b) stated that from where he was seated in the living room, that he could not see § 87(2)(b) be handcuffed. § 87(2)(b) did not see any force be used on § 87(2)(b) besides an officer pulling § 87(2)(b) out of the house by her arm. § 87(2)(b) did not hear any officer call § 87(2)(b) a “black bitch.” § 87(2)(b) stated that § 87(2)(b) bruises easily, and stated that on one occasion in the past he grabbed § 87(2)(b) in order to stop her from falling over, and that § 87(2)(b) subsequently suffered a bruise in the shape of his hand as a result.

PO Decio stated that upon entering the home, that § 87(2)(b) ran at him and fell, which he attributed to her being unstable on her feet due to how intoxicated she was. PO Decio then entered the home and handcuffed § 87(2)(b). PO Decio did not have to use any additional force besides pulling § 87(2)(b)'s hands behind her back. PO Decio denied kicking or elbowing § 87(2)(b). PO Decio denied calling § 87(2)(b) a "black bitch."

PO Barnes stated that PO Decio removed his handcuffs and § 87(2)(b) stated, "Get away from me. Get away from me." § 87(2)(b) then put her hands up, leaned backwards, and slid to the floor near the front door in an attempt to keep the officers from getting closer to her. § 87(2)(b) was making statements such as, "No, you don't gotta come to me. You don't gotta come to me. I'm not going anywhere. Try to get me out of the house. I'm gonna be right back home. I used to work there. You don't know nobody. You're just mad cause I wrote up one of your officers." The living room was cluttered, and once she was on the floor there was nowhere for her to go to. PO Decio approached § 87(2)(b) and placed her into handcuffs by grabbing her right arm, and saying "C'mon" § 87(2)(b) then gave both her wrists to PO Decio. PO Barnes did not hear PO Decio call § 87(2)(b) a "black bitch." PO Barnes did not see PO Decio kick or elbow § 87(2)(b).

The TRI report prepared by PO Decio indicates that a forcible takedown was used to get § 87(2)(b) into handcuffs, however, it does not list any kicks or hand strikes. **(Board Review 04)**

Medical records from § 87(2)(b) Hospital were obtained for August 20, 2018. The hospital records do not indicate any bruising on § 87(2)(b) or any indication of assault trauma.

§ 87(2)(b), § 87(2)(g)

**Allegation (G) Abuse of Authority: PO Edmond Decio forcibly removed § 87(2)(b) to the hospital.**

**Allegation (H) Abuse of Authority: Police Officer Yvonne Barnes forcibly removed § 87(2)(b) to the hospital.**

§ 87(2)(b) alleged that after she was handcuffed, that she was removed to § 87(2)(b) Hospital. § 87(2)(b) stated that she had woken up at 9 a.m. and had her first alcoholic beverage at 9:30 a.m., but denied being intoxicated during the incident. § 87(2)(b) sat in the emergency room for approximately 20 minutes. Neither the officers nor hospital personnel spoke to § 87(2)(b) about whether she was under arrest or would be treated so she left and walked to her home.

§ 87(2)(b) provided a telephone statement and testified that he had gotten into an argument with § 87(2)(b) about her alcohol consumption. § 87(2)(b) had a knife and § 87(2)(b) told her to put it away or that he would call the police. § 87(2)(b) then ran into the back of the home with the knife. § 87(2)(b) did not know what § 87(2)(b) was doing with the knife, and subsequently called the police. PO Barnes and PO Decio arrived at the location and decided to take § 87(2)(b) to the hospital. § 87(2)(b) stated that he felt that it was appropriate for § 87(2)(b) to go to the hospital given her behavior and that she was intoxicated.

§ 87(2)(g)

§ 87(2)(b). The officers did not recall the specific details of the call or if it indicated how the knife was being used. Upon arriving at the house, they learned at some point that § 87(2)(b) was intoxicated and had threatened to cut § 87(2)(b)'s computer wires with the knife. Both officers stated that they have interacted with § 87(2)(b) on several occasions and that she is a known alcoholic. § 87(2)(b) was actively consuming alcohol upon the officers arriving, was pacing and yelling, had watery eyes, and was unsteady on her feet. § 87(2)(b) ran at PO Decio and fell onto the floor which he attributed to her being intoxicated. § 87(2)(b) told the officers that he did not want to press charges against § 87(2)(b) but that he wanted her to be taken to the hospital. The officers informed Sgt. Juliano who had arrived on scene at some point (the officers were unsure as to when) that they were removing § 87(2)(b) to the hospital and he approved their decision.

ICAD information shows that § 87(2)(b) called 911, stated that his mother was intoxicated, pulled a knife on him, slapped him, and stated that if he called the police that he would be dead before they got there. **(Board Review 01)**

An AIDED report was prepared by PO Decio. It states that § 87(2)(b) called 911 for his mother who suffered from bi-polar disorder and who was highly intoxicated, and that § 87(2)(b) was threatening § 87(2)(b)'s life and property. **(Board Review 09)**

NYPD Patrol Guide Procedure 221-13 defines an emotionally disturbed person as a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious physical injury or death to himself or others **(Board Review 05)**.

Medical records from § 87(2)(b) Hospital were obtained for § 87(2)(b). On the Prehospital Care Report prepared by FDNY, § 87(2)(b)'s chief complaint is quoted as stating "I want to stab my son." § 87(2)(b) arrived at the hospital at 12:55 p.m. § 87(2)(b) was brought into the ER in police custody for a psychological exam. It is noted that § 87(2)(b) had cognitive impairment, altered mental status, and that she was verbally abusive and aggressive with triage staff. At 2:18 p.m., a doctor attempted to conduct a psychological exam; however, the doctor noted that § 87(2)(b) was intoxicated, had slurred speech, and was uncooperative and that the exam would be re-conducted when § 87(2)(b) was sober. § 87(2)(b)'s alcohol blood serum was 362 mg/dl, and the records note that fatalities are reported at 400 mg/dl. The medical records further state that at 7:29 p.m., that § 87(2)(b) ran out of the emergency room while intoxicated and that she was a risk to herself. § 87(2)(b) was discharged at 9:26 p.m. and diagnosed with alcohol abuse and alcohol induced mood disorder.

§ 87(2)(b), § 87(2)(g)

### Allegations not Pled

§ 87(2)(b) stated that she left the hospital approximately twenty minutes after arriving, without being discharged, because no one spoke with her. § 87(2)(b) then returned home. PO Decio and PO Barnes returned to § 87(2)(b)'s home and § 87(2)(b) let them into the home. PO Decio told § 87(2)(b) that she had to go back to the hospital and she said "okay" and went back to the hospital with the officers without being handcuffed. An entry is not being pled as it is undisputed that § 87(2)(b) allowed the officers into the home. A second forcible removal allegation is not being pled as not only is it subsumed in the first forcible removal allegation, but § 87(2)(b) voluntarily returned to the hospital.

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party. **(Board Review 06)**
- PO Barnes has been a member of the NYPD for 13 years and has been a subject in two additional CCRB complaints and three allegations, none of which have been substantiated. § 87(2)(g)
- PO Decio has been a member of the NYPD for 23 years and has been a subject in seven additional CCRB complaints and 15 allegations, none of which have been substantiated. § 87(2)(g)

### Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- On February 4, 2019, an inquiry was filed with the New York City Comptroller's Office to locate a notice of claim for § 87(2)(b). Results are pending. **(Board Review 07)**

According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City. **(Board Review 08)**

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Squad No.: 11

Investigator:	_____	Inv. Thomas Juliano	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date